

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,	)	
	)	Case No. 4:13CR3034
Plaintiff,	)	
	)	
vs.	)	<b>TENTATIVE</b>
	)	<b>FINDINGS</b>
DEBBIE J. NEUMANN,	)	
	)	
Defendant.	)	

I am in receipt of the revised presentence investigation report and addendum, and the defendant's objection thereto, in this case.

IT IS ORDERED that:

(1) The undersigned will consult and follow or deviate from the Guidelines to the extent permitted and required by *United States v. Booker*, 543 U.S. 220(2005) and subsequent cases. In this regard, the undersigned gives notice that, unless otherwise ordered, he will (a) give the advisory Guidelines such weight as they deserve within the context of each individual case and will filter the Guidelines general advice through §3553(a)'s list of factors; (b) resolve all factual disputes relevant to sentencing by the greater weight of the evidence and without the aid of a jury; (c) impose upon the government the burden of proof on all Guideline-enhancements; (d) impose upon the defendant the burden of proof on all Guideline-mitigators; (e) depart from the advisory Guidelines, if appropriate, using pre-Booker departure theory; and (f) in cases where a departure using pre-Booker departure theory is not warranted, deviate or vary from the Guidelines when there is a principled reason for doing so. I no longer give the Guidelines "substantial weight."

(2) The defendant's objection (filing no. 37) to a lack of role reduction is sustained in part and denied in part. The facts are undisputed. The defendant did one thing, and that was to serve as a passenger in a car that made repeated interstate trips for the purpose allowing the driver of the car to distribute the drugs that were in the car and about which the defendant was generally aware. Aside from riding in the car as a passenger, presumably so the driver, her husband, would appear to be less suspicious than a single male traveling alone,

the defendant did nothing to facilitate the acquisition, transportation or distribution of the drugs. Accordingly, the defendant is entitled to a three level reduction under U.S.S.G. § 3B1.2 (last sentence). As the defendant had some understanding of the scope of her husband's business due to the fact that she made repeated trips at the direction of her husband, but her knowledge was imperfect (her husband told her to keep out of his business) and she only played the role of a passenger, the defendant falls between the role of a "minor" participant and the role of a "minimal" participant.

(3) Except to the extent (if at all) that I have sustained an objection or granted a motion or reserved an issue for later resolution in the preceding paragraph, the parties are herewith notified that my tentative findings are that the presentence report is correct in all respects.

(4) If **any** party wishes to challenge these tentative findings, said party shall, as soon as possible, but in any event at least five (5) business days before sentencing, file in the court file and serve upon opposing counsel and the court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and how long such a hearing would take.

(5) Absent submission of the information required by the preceding paragraph of this order, my tentative findings may become final and the presentence report may be adopted and relied upon by me without more.

(6) Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

October 3, 2013.

BY THE COURT:

*Richard G. Kopf*

Senior United States District Judge